

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

MICHAEL MOATES, DC CHRONICLE,
and DC CHRONICLE LIMITED,

Plaintiff,

v.

FACEBOOK, INC. AND AT&T INC.,

Defendant.

Case No. 4:21-cv-00694

DECLARATION OF JENNY PRICER

I, Jenny Pricer, of full age, hereby declare as follows:

1. For the above-captioned matter, I submit this declaration in support of Defendant Facebook, Inc.'s Motion to Transfer. I have personal knowledge of the facts set forth herein unless otherwise noted, and if called to testify as a witness thereto, I could do so competently under oath.

2. I am an eDiscovery/Litigation Case Manager in the Legal Department at Facebook. My duties and responsibilities in this role include managing litigation matters involving Facebook, Inc. As part of my current role, I am regularly involved in assisting to collect evidence about aspects of services across the company's platforms, and have become familiar with the way in which the services have been delivered over time.

3. Facebook is headquartered in Menlo Park, San Mateo County, California.

4. Individuals using Facebook services can create and share a variety of content with others. They can create personal profiles to share their opinions, ideas, photos, videos, and other activities. They can also create pages that feature entities, brands, businesses, or causes, and they may run advertisements on the Facebook platform.

5. I understand based on my review of Facebook's records that as part of the user-registration process in 2014 and through the present, any person who registers for, uses, and continues to use a Facebook account is required to acknowledge that they have read and agreed to Facebook's terms. These terms are made available via a bright-blue, underlined hyperlink and are available online on Facebook's website. These terms have variously been referred to as Facebook's "Terms of Use," "Statement of Rights and Responsibilities," and "Terms of Service," through time.

6. The Terms require a user to acknowledge that, by continuing to use Facebook's services, the user assents to modifications to those terms posted on the Facebook website.

7. I understand based on my review of Facebook's records that each version of the Terms of Service from 2014 until the present reserved Facebook's right to remove user content or revoke users' access to Facebook at Facebook's sole discretion.

8. I understand based on my review of Facebook's records that each version of the Terms of Service from 2014 until the present contained a forum-selection clause specifying any claim arising out of or relating to Facebook's Terms of Service will be resolved exclusively in the U.S. District Court for the Northern District of California or a state court located in San Mateo County, California.

9. I understand based on my review of Facebook's records that each version of the Terms of Service from 2014 until the present specified that any claim arising out of or relating to Facebook's Terms of Service will be governed by California law, without regard to conflict of law provisions.

10. I understand based on my review of Facebook's records that Plaintiff Michael Moates created a Facebook account on July 13, 2014. Attached hereto as **Exhibit A** is a true and correct copy of the November 15, 2013 Terms of Service that was in effect in July 2014, as maintained in Facebook's records.

11. I understand based on my review of Facebook's records that Plaintiff Michael Moates created another Facebook account on February 6, 2017. Attached hereto as **Exhibit B** is a true and correct copy of the January 30, 2015 Terms of Service that was in effect in February 2017, as maintained in Facebook's records.

12. Attached hereto as **Exhibit C** is a true and correct copy of the October 1, 2020 Terms of Service that was in effect as of October 20, 2020, the date Plaintiff alleges that Facebook disabled his accounts.

13. I understand based on Attachment A to the Amended Complaint (Dkt. 8-1) that Plaintiff allegedly purchased advertising from Facebook between May 7, 2018 and November 22, 2020. I understand based on my review of Facebook's records that, as a necessary part of purchasing advertising on a "self-serve" basis, a purchaser like Plaintiff is required to accept and confirm (via a "Confirm" button) the purchaser's agreement to Facebook's Terms, including Facebook's Self-Serve Ad Terms and the Facebook Advertising Guidelines, upon each advertising purchase.

14. Before clicking on the "Confirm" button, the following language is presented to a user: "By clicking 'Confirm,' you agree to the Facebook Terms of Service including your obligation to comply with the Self-Serve Ad Terms and the Facebook Advertising Guidelines." I understand that the references to the "Terms of Service," the "Self-Serve Ad Terms," and the "Facebook Advertising Guidelines" are all set forth in distinct blue hyperlinks.

15. Attached hereto as **Exhibit D** is a true and correct copy of the November 10, 2017 Self-Serve Ad Terms that were in effect as of May 7, 2018, the beginning of the window during which Plaintiff allegedly purchased advertising.

16. I understand based on my review of Facebook's records that each version of the Self-Serve Ad Terms from May 7, 2018 to November 22, 2020 specified that if the purchaser is purchasing ads on someone else's behalf, the purchaser must represent and warrant that the purchaser has the authority to bind the advertiser to Facebook's Terms of Service and Self-Serve Ad Terms.

I declare under penalty of perjury that the foregoing is true and correct. Executed this
27th day of October 2021 in Menlo Park, California.

Dated: October 27, 2021

By: /s/ Jenny Pricer
Jenny Pricer